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The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Fire Safety Commission

Automatic Sprinkler Appeals Board

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MAURICE M. PILETTE
CHAIRMAN

PAUL DONGA
VICE CHAIR

Docket # 2008-10
12 Old Common Road
Lancaster, Massachusetts

AUTOMATIC SPRINKLER APPEALS BOARD DECISION

A) Statutory and Regulatory Framework

This administrative appeal hearing is held in accordance with Massachusetts General Law, Chapter 30A; Chapter 148, section 26 H; Chapter 6, section 201 and 530 CMR, to determine whether to affirm the Order of the Lancaster Fire Department requiring the Appellants, Charlotte and John Creighton, (hereinafter referred to as the "Appellants") to install automatic sprinklers in a building owned by them located at 12 Old Common Road, Lancaster, MA.

B) Procedural History

By written notice dated July 7, 2008 and received by the Appellants on July 9, 2008, the Town of Lancaster Fire Department issued an Order of Notice to the Appellants informing them of the provisions of M.G.L. c. 148, s. 26H, and the Department's determination that would require automatic sprinklers to be installed in the Appellants' building, located at 12 Old Common Road, Lancaster, MA. The Appellants filed an appeal of said Order with this Board on August 21, 2008. The Board held a hearing on this matter on November 12, 2008, at the Department of Fire Services, Stow, Massachusetts.

Appearing on behalf of the Appellants were Charlotte and John Creighton. Appearing on behalf of the Lancaster Fire Department were Chief John T. Fleck and Lt. Michael Hanson.

Present for the Board were: Maurice Pilette, Chairman; Thomas Coulombe; Roderick Fraser; Alexander Macleod; Peter Gibbons; John J. Mahan; and George Duhamel. Peter A. Senopoulos, Esquire, was the Attorney for the Board.

C) Issue(s) to be Decided

Whether the building located at 12 Old Common Road, Lancaster, as currently used and occupied, is subject to the automatic sprinkler requirements of M.G.L c.148, s. 26H?

D) Evidence Received

1. Application for Appeal by Appellant
2. Statement in support of the application for appeal
3. Order of Notice of the Lancaster Fire Department
4. 1st Notice of Hearing to Parties
5. 2nd Notice of Hearing to the Appellant
6. 2nd Notice of Hearing to the Lancaster Fire Department
7. Copies of two Memoranda that accompanied the hearing notices
8. Property Card of Premises (A-C)
9. Water Flow test data
10. Sprinkler System Price Quotes (A-B)

E) Subsidiary Findings of Fact

- 1) By written notice dated July 7, 2008 and received on July 9, 2008, the Town of Lancaster Fire Department issued an Order of Notice to the Appellants informing them of the provisions of M.G.L. c. 148, s.26H, and requiring that automatic sprinklers be installed in the Appellants' building located at 12 Old Common Road, Lancaster, MA. An appeal of said Order was filed on August 21, 2008. The Board held a hearing on this matter on November 12, 2008, at the Department of Fire Services, Stow, Massachusetts.
- 2) On or about May 19, 1997, the Town of Lancaster adopted the provisions of M.G.L. c. 148, s. 26H, a local option law. The Appellants do not challenge this finding. Said section defines a lodging house or boarding house as a house where lodgings are "let to six or more persons not within the second degree of kindred to the person conducting it."
- 3) According to a Lancaster property card, the property located at 12 Old Common Road, Lancaster, Massachusetts, was purchased by the Appellants in July 1975. The property is currently considered "mixed use", with the Appellants operating a flooring store in one portion of the building, and a "bed and breakfast" type establishment in the other portion.
- 4) The Appellants testified that they have owned and operated the bed and breakfast establishment for the past 18 years. The bed and breakfast, as currently designed, operates on two levels. The first level (ground floor) includes a reception area and three guest rooms, each with their own bathroom, and a combination guest room/conference room, complete with a bathroom and a small kitchenette (not including a stove). Below the ground level there is a lower level, which features a large two-bedroom suite with a bathroom and lounge/dining area with kitchen and two other guest rooms each with their own bathroom.
- 5) Based upon the size of the building, the facility has accommodations for upwards of 16 persons.
- 6) The Appellants testified that upon receipt of the Order of Notice, they solicited bids from several sprinkler contractors that range in price from \$34,000.00 to \$39,000.00.
- 7) The Appellants did not provide any evidence or arguments, which would indicate that the building is not subject to the provisions of the subject statute and the Fire Chief's determination.

However, they did indicate that the installation of an adequate sprinkler system, at this time, would be a severe financial hardship due to the current recession, which has resulted in a reduction in business. They also expressed concerns about their ability to secure financing for the installation work, which would also include some significant renovations. The Appellants requested that if the Board determined that a sprinkler system is required, that it grant an extension to complete the work. The Appellants indicated that at least a two-year extension would be needed. Chief Fleck did not oppose the granting of a reasonable period of time to complete such installation, particularly since the town's determination and Order was recently issued in July, 2008. However, it was his opinion that a two-year extension would be an unreasonable period of time.

- 8) The representatives of the Lancaster Fire Department testified that they ordered the installation of sprinklers based upon the building's current use as a "lodging house," as defined in the statute, M.G.L. s. 26H. Chief Fleck also indicated that the facility, due to upgrades over the past 20 years, has a complex and winding interior that could impede occupant egress and firefighting/rescue activities in the event of a fire.
- 9) Chief Fleck indicated that his determination also included an upgraded fire notification system throughout the ground and sub-ground levels.

F) Ultimate Findings of Fact and Conclusions of Law

- 1) The Board finds that on or about May 19, 1997, the Town of Lancaster adopted the provisions of M.G.L. c. 148, s. 26H.
- 2) The building located at 12 Old Common Road, Lancaster, MA, as it is currently used and occupied, is subject to the provisions of M.G.L. c.148, s.26H. The Board finds that the subject building, as currently used and occupied, is "a house where lodgings are let to six or more persons not within the second degree of kindred to the person conducting it".
- 3) The building does not come within any of the enumerated statutory exemptions.
- 4) The Board finds that based upon the unique financial hardship relating to the cost of installation and the exhibited good faith efforts to comply with the law, as presented by both parties, a reasonable period of time is warranted to comply with a determination that an adequate system of automatic sprinklers is required.

G) Decision

Based upon the aforementioned findings and reasoning, the Board hereby **upholds** the Order of the Lancaster Fire Department to install an adequate system sprinkler protection in the subject building in accordance with the provisions of M.G.L. c.148, s. 26H.

The Appellant is hereby required to install an adequate system of automatic sprinklers throughout all lodging areas of this building, on both levels, and such other areas used in connection therewith. Said system shall include an adequately monitored fire alarm system throughout all such areas. The

Board hereby determines that an adequate system of sprinklers may consist of either an NFPA 13R or NFPA 13D system, subject to the approval of the Fire Department.

Plans for the installation of the referenced sprinkler system and the required alarm system shall be submitted to the Lancaster Fire Department within (90) ninety days from the date of this decision.

The installation shall commence within one (1) year from the date of this decision and shall be completed no later than (18) eighteen months from the date of this decision.

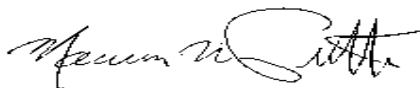
H) Vote of the Board

Maurice Pilette	In Favor
Thomas Coulombe	In Favor
Roderick Fraser, Commissioner	In Favor
Alexander MacLeod	In Favor
Peter Gibbons	In Favor
John J. Mahan	In Favor
Aime DeNault	In Favor

I) Right of Appeal

You are hereby advised you have the right to appeal this decision, in whole or in part, within thirty (30) days from the date of receipt of this order, pursuant to section 14 of chapter 30A of the General Laws.

SO ORDERED,



Maurice Pilette, PE, Chairman

Dated: December 16, 2008

**A COPY OF THIS DECISION AND ORDER WAS FORWARDED BY CERTIFIED MAIL,
RETURN RECEIPT TO:**

Charlotte and John Creighton
College Town Bed & Breakfast
P.O. Box 307
Lancaster, Massachusetts 01561

Chief John T. Fleck
Lancaster Fire Department
P.O. Box 101 – 1055 Main Street
Lancaster, Massachusetts 01523